

**Executive Summary – Enforcement Matter – Case No. 48384
ENVIROCARE, INC. dba Southern Enterprises of Envirocare
RN102918315
Docket No. 2014-0372-MLM-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM – IHW and MSW (Used Oil)

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Southern Enterprises of Envirocare, 1551 Old Moody Road, Eddy, McLennan County

Type of Operation:

Paint recycling facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: October 2, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$70,275

Amount Deferred for Expedited Settlement: \$14,055

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,585

Total Due to General Revenue: \$54,635

Payment Plan: 35 payments of \$1,561 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: Yes (IHW)

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 48384
ENVIROCARE, INC. dba Southern Enterprises of Envirocare
RN102918315
Docket No. 2014-0372-MLM-E

Investigation Information

Complaint Date(s): September 24, 2013

Complaint Information: Alleged there were spilled chemicals on the ground and poor housekeeping issues.

Date(s) of Investigation: November 20, 2013

Date(s) of NOE(s): January 10, 2014

Violation Information

1. Failed to label used oil containers clearly with the words "Used Oil." Specifically, three totes and ten drums containing used oil were not labeled [30 TEX. ADMIN. CODE § 324.6 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 279.22(c)(1)].
2. Failed to perform response action upon detection of a release of used oil. Specifically, used oil was discharged on the shop floor from three totes [30 TEX. ADMIN. CODE § 324.15, TEX. HEALTH & SAFETY CODE § 371.041 and 40 CFR § 279.22(d)].
3. Failed to comply with prohibition requirements to collect, transport, store, burn, market, recycle, process, use, discharge, or dispose of used oil in any manner that endangers the public health or welfare of the environment. Specifically, ten drums and three totes containing used oil were open [30 TEX. ADMIN. CODE § 324.4(1)].
4. Failed to keep containers holding paint or paint-related waste closed, except when adding or removing waste. Specifically, 20 drums containing paint waste were open [30 TEX. ADMIN. CODE § 335.262(c)(2)(A) and 40 CFR § 265.173(a)].
5. Failed to properly contain paint or paint-related waste in a container that is structurally sound, compatible with the waste, and that lacks evidence of leakage, spillage, or damage. Specifically, ten containers were cut open and used as trays to hold waste [30 TEX. ADMIN. CODE § 335.262(c)(2)(B)].
6. Failed to label universal waste containers with the words "Universal Waste-Paint and Paint-Related Wastes." Specifically, three drums containing paint waste were not labeled [30 TEX. ADMIN. CODE § 335.262(c)(2)(F) and 40 CFR § 273.14].
7. Failed to maintain aisle space to allow unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment. Specifically, adequate aisle space was not provided to allow unobstructed inspection of containerized waste [30 TEX. ADMIN. CODE §§ 335.69(a)(4)(A) and 335.112(a)(2) and 40 CFR § 264.35].

Executive Summary – Enforcement Matter – Case No. 48384
ENVIROCARE, INC. dba Southern Enterprises of Envirocare
RN102918315
Docket No. 2014-0372-MLM-E

8. Failed to obtain a hazardous waste storage permit prior to storing hazardous waste at the Facility. Specifically, the Respondent had been storing and processing hazardous waste without a permit [30 TEX. ADMIN. CODE § 335.2(b)].

9. Failed to prevent the unauthorized discharge of industrial solid waste at the Facility. Specifically, the investigator noted a discharge inside the Facility's waste accumulation area and outside on the ground [30 TEX. ADMIN. CODE § 335.4(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. Labeled all used oil containers with the words "Used Oil" on March 16, 2014;
- b. Conducted cleanup of the oil-contaminated area, removed all contaminated materials from the Facility and disposed of them at an authorized facility on March 16, 2014;
- c. Properly closed the used oil containers on March 16, 2014;
- d. Properly closed paint waste containers on March 16, 2014;
- e. Began containing the paint related waste in structurally sound containers on March 16, 2014;
- f. Labeled the paint waste containers with the words "Universal Waste-Paint and Paint-Related Wastes" on March 16, 2014;
- g. Provided adequate space for the unobstructed movement of personnel and emergency response equipment on March 16, 2014; and
- h. Cleaned up the discharge inside and outside of the waste accumulation area, collected soil samples and submitted analytical results which indicated that the concentrations of metals and volatiles were below the Toxic Characteristic Leaching Procedure regulatory limits on July 29, 2014.

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease storing hazardous waste at the Facility until proper authorization is obtained.

Executive Summary – Enforcement Matter – Case No. 48384
ENVIROCARE, INC. dba Southern Enterprises of Envirocare
RN102918315
Docket No. 2014-0372-MLM-E

b. Within 30 days:

i. Remove all hazardous waste stored at the Facility and dispose of it at an authorized facility; or

ii. Submit an administratively complete permit application in order to authorize storing hazardous waste at the Facility.

c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing.

d. Within 180 days, submit written certification that authorization to store hazardous waste has been obtained or that storage of hazardous waste has ceased until such time that appropriate authorization is obtained.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division, Enforcement Team 6, MC 169, (512) 239-2576; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2486

TCEQ SEP Coordinator: N/A

Respondent: Vivian S. Williams, President, ENVIROCARE, INC., 1575 Old Moody Road, Eddy, Texas 76524

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	14-Jan-2014	PCW	30-Jun-2014	Screening	16-Jan-2014	EPA Due	18-Jul-2014
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RESPONDENT/FACILITY INFORMATION

Respondent	ENVIROCARE, INC. dba Southern Enterprises of Envirocare		
Reg. Ent. Ref. No.	RN102918315		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	48384	No. of Violations	6
Docket No.	2014-0372-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Used Oil	Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$75,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: The Respondent has submitted one notice of intended audit; however, because a reduction would be below zero, the enhancement defaults to zero.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$6,750
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$784
Approx. Cost of Compliance: \$13,615
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$68,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$68,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$68,250
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DEFERRAL	20.0% Reduction	Adjustment	-\$13,650
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$54,600
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Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of E

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Abigail Lindsey

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has submitted one notice of intended audit; however, because a reduction would be below zero, the enhancement defaults to zero.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.262(c)(2)(A) and 40 Code of Federal Regulations ("CFR") § 265.173(a)

Violation Description Failed to keep containers holding paint or paint-related waste closed, except when adding or removing waste. Specifically, 20 drums containing paint waste were open.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2 57 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two monthly events are recommended from the November 20, 2013 investigation to the January 16, 2014 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$1,500

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent came into compliance on March 16, 2014, after the Notice of Enforcement ("NOE") dated January 10, 2014.

Violation Subtotal \$13,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$13,500

This violation Final Assessed Penalty (adjusted for limits) \$13,500

Economic Benefit Worksheet

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare
Case ID No. 48384
Reg. Ent. Reference No. RN102918315
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	20-Nov-2013	16-Mar-2014	0.32	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to properly close 20 paint waste containers (\$5.00 per container). The date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$2

Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Abigail Lindsey

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 335.262(c)(2)(B)

Violation Description

Failed to properly contain paint or paint-related waste in a container that is structurally sound, compatible with the waste, and that lacks evidence of leakage, spillage, or damage. Specifically, ten containers were cut open and used as trays to hold waste.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 10

57

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$37,500

Ten single events (one for each container) are recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$3,750

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on March 16, 2014, after the NOE dated January 10, 2014.

Violation Subtotal \$33,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$33,750

This violation Final Assessed Penalty (adjusted for limits) \$33,750

Economic Benefit Worksheet

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare
Case ID No. 48384
Reg. Ent. Reference No. RN102918315
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	20-Nov-2013	16-Mar-2014	0.32	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to contain the paint related waste in structurally sound containers. The date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$8

Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Abigail Lindsey

Violation Number 3

Rule Cite(s)

30 Tex. Admin Code § 335.262(c)(2)(F) and 40 CFR § 273.14

Violation Description

Failed to label universal waste containers with the words "Universal Waste-Paint and Paint-Related Wastes". Specifically, three drums containing paint waste were not labeled.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

57 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the November 20, 2013 investigation to the January 16, 2014 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$750

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on March 16, 2014, after the NOE dated January 10, 2014.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$6,750

This violation Final Assessed Penalty (adjusted for limits) \$6,750

Economic Benefit Worksheet

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare
Case ID No. 48384
Reg. Ent. Reference No. RN102918315
Media Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$15	20-Nov-2013	16-Mar-2014	0.32	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to label three universal waste containers with the words "Universal Waste-Paint and Paint-Related Wastes". The date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15

TOTAL

\$0

Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Abigail Lindsey

Violation Number 4

Rule Cite(s)

30 Tex. Admin Code §§ 335.69(a)(4)(A) and 335.112(a)(2) and 40 CFR § 264.35

Violation Description

Failed to maintain aisle space to allow unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment. Specifically, adequate aisle space was not provided to allow unobstructed inspection of containerized waste.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

57

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the November 20, 2013 investigation to the January 16, 2014 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$375

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on March 16, 2014, after the NOE dated January 10, 2014.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$3,375

This violation Final Assessed Penalty (adjusted for limits) \$3,375

Economic Benefit Worksheet

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare
Case ID No. 48384
Reg. Ent. Reference No. RN102918315
Media Industrial and Hazardous Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	20-Nov-2013	16-Mar-2014	0.32	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost provide adequate aisle space for the unobstructed movement of personnel and emergency response equipment. The date required is the investigation date and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$8

Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Abigail Lindsey

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 335.2(b)

Violation Description

Failed to obtain a hazardous waste storage permit prior to storing hazardous waste at the Facility. Specifically, the Respondent had been storing and processing hazardous waste without a permit.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

57 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the November 20, 2013 investigation to the January 16, 2014 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$681

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare
Case ID No. 48384
Reg. Ent. Reference No. RN102918315
Media Industrial and Hazardous Waste
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	20-Nov-2013	1-Apr-2015	1.36	\$681	n/a	\$681
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a hazardous waste storage permit. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$681

Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Abigail Lindsey

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code § 335.4(3)

Violation Description

Failed to prevent the unauthorized discharge of industrial solid wastes at the Facility. Specifically, the investigator noted a discharge inside the Facility's waste accumulation area and outside on the ground.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

57 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the November 20, 2013 investigation to the January 16, 2014 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$375

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on July 29, 2014, after the NOE dated January 10, 2014.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$86

Violation Final Penalty Total \$3,375

This violation Final Assessed Penalty (adjusted for limits) \$3,375

Economic Benefit Worksheet

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare
Case ID No. 48384
Reg. Ent. Reference No. RN102918315
Media Industrial and Hazardous Waste
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$2,000	20-Nov-2013	29-Jul-2014	0.69	\$69	n/a	\$69
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	20-Nov-2013	29-Jul-2014	0.69	\$17	n/a	\$17

Notes for DELAYED costs

Estimated cost to clean up discharge inside and outside of the waste accumulation area (\$2,000), collect soil samples and submit analytical results (\$500). The date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$2,500	TOTAL	\$86
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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	14-Jan-2014	Screening	16-Jan-2014	EPA Due	18-Jul-2014
	PCW	27-Jun-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	ENVIROCARE, INC. dba Southern Enterprises of Envirocare		
Reg. Ent. Ref. No.	RN102918315		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	48384	No. of Violations	3
Docket No.	2014-0372-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Industrial and Hazardous Waste	Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: The Respondent has submitted one notice of intended audit; however, because a reduction would be below zero, the enhancement defaults to zero.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$225
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$18
Approx. Cost of Compliance \$1,130
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,025
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$2,025
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,025
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DEFERRAL	20.0% Reduction	Adjustment	-\$405
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,620
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Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of E

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Used Oil

Enf. Coordinator Abigail Lindsey

Compliance History Worksheet>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%>> **Compliance History Person Classification (Subtotal 7)**

Unclassified

Adjustment Percentage (Subtotal 7) 0%>> **Compliance History Summary****Compliance History Notes**

The Respondent has submitted one notice of intended audit; however, because a reduction would be below zero, the enhancement defaults to zero.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%>> **Final Compliance History Adjustment****Final Adjustment Percentage *capped at 100%** 0%

Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Used Oil

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 324.6 and 40 Code of Federal Regulations ("CFR") § 279.22(c)(1)

Violation Description Failed to label used oil containers clearly with the words "Used Oil". Specifically, three totes and ten drums containing used oil were not labeled.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 2

57 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two monthly events are recommended from the November 20, 2013 investigation to the January 16, 2014 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$50

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on March 16, 2014, after the Notice of Enforcement ("NOE") dated January 10, 2014.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$450

This violation Final Assessed Penalty (adjusted for limits) \$450

Economic Benefit Worksheet

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare
Case ID No. 48384
Reg. Ent. Reference No. RN102918315
Media Used Oil
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$65	20-Nov-2013	16-Mar-2014	0.32	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to label 13 used oil containers (\$5.00 per container). The date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$65

TOTAL

\$1

Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Used Oil

Enf. Coordinator Abigail Lindsey

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 324.15, Tex. Health & Safety Code § 371.041 and 40 CFR § 279.22(d)

Violation Description

Failed to perform response action upon detection of a release of used oil.
Specifically, used oil was discharged on the shop floor from three totes.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

57 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$250

One quarterly event is recommended from the November 20, 2013 investigation date to the January 16, 2014 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$25

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent came into compliance on March 16, 2014, after the NOE dated January 10, 2014.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$225

This violation Final Assessed Penalty (adjusted for limits) \$225

Economic Benefit Worksheet

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare
Case ID No. 48384
Reg. Ent. Reference No. RN102918315
Media Used Oil
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,000	20-Nov-2013	16-Mar-2014	0.32	\$16	n/a	\$16
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct cleanup of the oil-contaminated area, remove all contaminated materials from the Facility and dispose of them at an authorized facility. The date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$16

Screening Date 16-Jan-2014

Docket No. 2014-0372-MLM-E

PCW

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare

Policy Revision 3 (September 2011)

Case ID No. 48384

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102918315

Media [Statute] Used Oil

Enf. Coordinator Abigail Lindsey

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 324.4(1)

Violation Description

Failed to comply with prohibition requirements to collect, transport, store, burn, market, recycle, process, use, discharge, or dispose of used oil in any manner that endangers the public health or welfare of the environment. Specifically, ten drums and three totes containing used oil were open.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 2

57 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,500

Two monthly events are recommended from the November 20, 2013 investigation to the January 16, 2014 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$150

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on March 16, 2014, after the NOE dated January 10, 2014.

Violation Subtotal \$1,350

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,350

This violation Final Assessed Penalty (adjusted for limits) \$1,350

Economic Benefit Worksheet

Respondent ENVIROCARE, INC. dba Southern Enterprises of Envirocare
Case ID No. 48384
Reg. Ent. Reference No. RN102918315
Media Used Oil
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$65	20-Nov-2013	16-Mar-2014	0.32	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to close 13 used oil containers (\$5.00 per container). The date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$65

TOTAL

\$1

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PENDING Compliance History Report for CN600382857, RN102918315, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600382857, ENVIROCARE, INC.

Classification: UNCLASSIFIED

Rating: -----

Regulated Entity: RN102918315, Southern Enterprises of Envirocare

Classification: UNCLASSIFIED

Rating: -----

Complexity Points: 2

Repeat Violator: NO

CH Group: 14 - Other

Location: 1551 OLD MOODY ROAD EDDY, TX 76524-3209, MCLENNAN COUNTY

TCEQ Region: REGION 09 - WACO

ID Number(s): **INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 86350

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000022830

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: September 26, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 26, 2009 to September 26, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Mike Pace

Phone: (817) 588-5933

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If **YES** for #2, who is the current owner/operator? Envirocare, Inc. OWNER OPERATOR since 5/2/2011
Vivian Leatherberry Smith Trustee OWNER OPERATOR since 1/5/2000
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? Crubaugh, OWNER OPERATOR, 1/1/1800 to 5/1/2011
- 5) If **YES**, when did the change(s) in owner or operator occur? 5/2/2011

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 May 01, 2014 (1144751)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

Notice of Intent Date: 09/26/2013 (1122311)

No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ENVIROCARE, INC. DBA
SOUTHERN ENTERPRISES OF
ENVIROCARE
RN102918315**

**§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-0372-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ENVIROCARE, INC. dba Southern Enterprises of Envirocare ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a paint recycling facility at 1551 Old Moody Road in Eddy, McLennan County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361 and the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 15, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seventy Thousand Two Hundred Seventy-Five Dollars (\$70,275) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Revenue Operations Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is able to pay the administrative penalty. The Respondent has paid One Thousand Five Hundred Eighty-Five Dollars (\$1,585) of the administrative penalty and Fourteen Thousand Fifty-Five Dollars (\$14,055) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Fifty-Four Thousand Six Hundred Thrity-Five Dollars (\$54,635) of the administrative penalty shall be payable in 35 monthly payments of One Thousand Five Hundred Sixty-One Dollars (\$1,561) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Labeled all used oil containers with the words "Used Oil" on March 16, 2014;
 - b. Conducted cleanup of the oil-contaminated area, removed all contaminated materials from the Facility and disposed of them at an authorized facility on March 16, 2014;
 - c. Properly closed the used oil containers on March 16, 2014;
 - d. Properly closed paint waste containers on March 16, 2014;
 - e. Began containing the paint related waste in structurally sound containers on March 16, 2014;
 - f. Labeled the paint waste containers with the words "Universal Waste-Paint and Paint-Related Wastes" on March 16, 2014;

- g. Provided adequate space for the unobstructed movement of personnel and emergency response equipment on March 16, 2014; and
 - h. Cleaned up the discharge inside and outside of the waste accumulation area, collected soil samples and submitted analytical results which indicated that the concentrations of metals and volatiles were below the Toxic Characteristic Leaching Procedure regulatory limits on July 29, 2014.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 - 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 - 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

- 1. Failed to label used oil containers clearly with the words "Used Oil", in violation of 30 TEX. ADMIN. CODE § 324.6 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 279.22(c)(1), as documented during an investigation conducted on November 20, 2013. Specifically, three totes and ten drums containing used oil were not labeled.
- 2. Failed to perform response action upon detection of a release of used oil, in violation of 30 TEX. ADMIN. CODE § 324.15, TEX. HEALTH & SAFETY CODE § 371.041 and 40 CFR § 279.22(d), as documented during an investigation conducted on November 20, 2013. Specifically, used oil was discharged on the shop floor from three totes.
- 3. Failed to comply with prohibition requirements to collect, transport, store, burn, market, recycle, process, use, discharge, or dispose of used oil in any manner that endangers the public health or welfare of the environment, in violation of 30 TEX. ADMIN. CODE § 324.4(1), as documented during an investigation conducted on November 20, 2013. Specifically, ten drums and three totes containing used oil were open.
- 4. Failed to keep containers holding paint or paint-related waste closed, except when adding or removing waste, in violation of 30 TEX. ADMIN. CODE § 335.262(c)(2)(A) and 40 CFR § 265.173(a), as documented during an investigation conducted on November 20, 2013. Specifically, 20 drums containing paint waste were open.
- 5. Failed to properly contain paint or paint-related waste in a container that is structurally sound, compatible with the waste, and that lacks evidence of leakage, spillage, or damage, in violation of 30 TEX. ADMIN. CODE § 335.262(c)(2)(B), as documented during

an investigation conducted on November 20, 2013. Specifically, ten containers were cut open and used as trays to hold waste.

6. Failed to label universal waste containers with the words "Universal Waste-Paint and Paint-Related Wastes", in violation of 30 TEX. ADMIN CODE § 335.262(c)(2)(F) and 40 CFR § 273.14, as documented during an investigation conducted on November 20, 2013. Specifically, three drums containing paint waste were not labeled.
7. Failed to maintain aisle space to allow unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment, in violation of 30 TEX. ADMIN CODE §§ 335.69(a)(4)(A) and 335.112(a)(2) and 40 CFR § 264.35, as documented during an investigation conducted on November 20, 2013. Specifically, adequate aisle space was not provided to allow unobstructed inspection of containerized waste.
8. Failed to obtain a hazardous waste storage permit prior to storing hazardous waste at the Facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b), as documented during an investigation conducted on November 20, 2013. Specifically, the Respondent had been storing and processing hazardous waste without a permit.
9. Failed to prevent the unauthorized discharge of industrial solid waste at the Facility, in violation of 30 TEX. ADMIN. CODE § 335.4(3), as documented during an investigation conducted on November 20, 2013. Specifically, the investigator noted a discharge inside the Facility's waste accumulation area and outside on the ground.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: ENVIROCARE, INC. dba Southern Enterprises of Envirocare, Docket No. 2014-0372-IHW-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order, cease storing hazardous waste at the Facility until proper authorization is obtained;
- b. Within 30 days after the effective date of the Agreed Order:
 - i. Remove all hazardous waste stored at the Facility and dispose of it at an authorized facility; or
 - ii. Submit an administratively complete permit application in order to authorize storing hazardous waste at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.2 to:

Texas Commission on Environmental Quality
Attention: Waste Permits Division, MC 126
P.O. Box 13087
Austin, Texas 78711-3087

- c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
- d. Within 180 days after the effective date of this Agreed Order, submit written certification that authorization to store hazardous waste has been obtained or that storage of hazardous waste has ceased until such time that appropriate authorization is obtained. The certification shall, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ronnie Manie
For the Executive Director

5/26/16
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Vivian S. Williams
Signature

August 25, 2015
Date

Vivian S. Williams
Name (Printed or typed)
Authorized Representative of
ENVIROCARE, INC. dba
Southern Enterprises of Envirocare

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.